



Applicant submits that Kennedy neither discloses, nor suggests, “placing” or “inserting” an electrode “in a blood vessel proximate to the neural tissue,” as recited in independent claims 1, 18 and 39. In contrast, Kennedy discloses a neural electrode 10 that is implanted into the brain by boring a hole through the skull. See, Kennedy, col. 3, lines 5-37 and col. 5, line 64 through col. 6, line 42. In particular, Kennedy discloses that in order to implant the electrode 10, a “scalp flap is opened” (Kennedy, col. 6, lines 10-11) and “a stainless steel bone screw is inserted into a drilled hole.” (Kennedy, col. 6, lines 15-16.) Applicant submits that drilling a hole in the skull in order to insert the electrode 10 is **not** the same as, nor equivalent to, “placing” or “inserting” an electrode “in a blood vessel proximate to the neural tissue.”

During the January 30<sup>th</sup> telephone conversation, the Examiner contended that Kennedy’s disclosure of the “electrode 10 [being] implanted in a part of the body which gives access to neural activity and corresponds to the area of interest for measurement” (Kennedy, col. 5, lines 47-49) taught the claimed feature of “placing an electrode in a blood vessel proximate to the neural tissue,” as recited in claims 1, 18 and 39. The Examiner also cited Kennedy, col. 5, lines 49-59 as disclosing other examples of neural regions of interest, such as the visual cortex or cerebral cortex. However, Applicant respectfully notes that Kennedy points out that the electrode 10 is implanted in “an area of cortex that is relatively **free** of blood vessels.” (Kennedy, col. 6, lines 11-15, emphasis added.) Thus, it is clear that when Kennedy’s electrode 10 is implanted in an area of cortex, *e.g.*, visual or cerebral, the area of the cortex has little or no blood vessels. Therefore, Applicant submits that Kennedy’s electrode 10 is not placed “in a blood vessel proximate to the neural tissue,” as recited in independent claims 1, 18 and 39, and actually teaches away from the claimed invention.



**Rejection under 35 U.S.C. §103**

Claims 14-16, 27, 29, and 31 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kennedy in view of U.S. Patent No. 5,843,093 to Howard. Claims 14-16 and 29 have been cancelled, thus rendering this rejection moot with respect to claims 14-16 and 29.

With respect to the rejection of claims 27 and 31, Applicant respectfully traverses the rejection. The Examiner acknowledges that Kennedy fails to disclose a plurality of electrodes. The Examiner relies on Howard as disclosing a catheter 137 having a plurality of microelectrodes 135a which can be placed into specific regions of a patient's brain. The Examiner contends that it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Kennedy and Howard to achieve the claimed invention.

Claim 27 depends from claim 1, and claim 31 depends from claim 18. Claims 27 and 31 recite features in addition to those set forth in their respective base claim. Applicant submits that Howard fails to disclose or suggest the features acknowledged by the Examiner to be missing from Howard with respect to claims 1 and 18. Furthermore, as discussed in Applicant's October 5, 2006 Response, Howard fails to disclose or suggest "placing [an] electrode in a . . . blood vessel proximate to the neural tissue," as recited in claims 27 and 31. Accordingly, Applicant submits that the combination of Kennedy and Howard fails to disclose or suggest each and every feature recited in claims 27 and 31. Applicant respectfully requests reconsideration and withdrawal of this rejection.

Claims 6-8, 17, and 22-24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of Kennedy and Howard in view of U.S. Patent Publication No. 2002/0117659 to







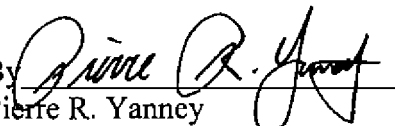
**CONCLUSION**

Each and every point raised in the Final Office Action dated January 9, 2007 has been addressed on the basis of the above amendments and remarks. In view of the foregoing it is believed that claims 1-9, 18-27, 30-36 and 39 are in condition for allowance and it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved through a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

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Respectfully submitted,

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